

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America,

Plaintiff,

v.

Jaime Avila, Jr.,

Defendant.

No. CR-11-0126-01-PHX-JAT_
(Supervised Release Violation)

**FINDINGS AND RECOMMENDATION
OF THE MAGISTRATE JUDGE UPON
ADMISSION**

TO THE HONORABLE JAMES A. TEILBORG, UNITED STATES DISTRICT JUDGE.

Upon Defendant's request to enter an admission to a violation(s) of supervised release, pursuant to Rule 11, of the Federal Rules of Criminal Procedure, this matter came on for hearing before United States Magistrate Judge Michelle H. Burns on March 14, 2019, with the written consents of Defendant, counsel for Defendant, and counsel for the United States of America.

In consideration of that hearing and the statements made by the Defendant under oath, on the record, and in the presence of counsel, and the remarks of the Assistant United States Attorney and of counsel for Defendant,

I FIND as follows:

(1) that Defendant understands the nature of the supervised release violation(s) alleged and the nature of the violation to which Defendant is admitting;

(2) that Defendant understands the right to a revocation hearing, to persist in denials, to the assistance of counsel, and appointed counsel if necessary at every other stage of the

1 proceedings, to confront and cross-examine adverse witnesses, to testify and present
2 evidence, to compel the attendance of witnesses and the right against compelled self-
3 incrimination;

4 (3) that Defendant understands the maximum disposition for the supervised release
5 violation, including imprisonment, fine and supervised release, and where applicable, any
6 mandatory minimum penalties; that Defendant understands that the disposition guidelines
7 are advisory, not mandatory, and that the disposition judge may depart from those
8 guidelines;

9 (4) that Defendant's admission to violating supervised release has been knowingly,
10 intelligently, and voluntarily made and is not the result of force or threats or of promises
11 between the parties;

12 (5) that Defendant is competent to admit to the supervised release violation;

13 (6) that Defendant understands that statements under oath may later be used in a
14 prosecution for perjury or false statements;

15 (7) that the Defendant understands that by admitting to the supervised release
16 violation waives the right to a revocation hearing;

17 (8) that Defendant is satisfied with the representation provided by defense counsel;

18 (9) that there is a factual basis for Defendant's admission; and

19 **I RECOMMEND** that the admission be accepted.

20 **ORDER**

21 IT IS ORDERED that any objection to the admission proceedings and any request
22 for supplementation of those proceedings be made by the parties in writing and shall be
23 specific as to the objection or request made. All objections or requests for supplementation
24 shall be filed within fourteen (14) days of the date of service of a copy of these findings
25 unless extended by an Order of the assigned district judge.

26 IT IS FURTHER ORDERED no more than ten (10) character letters shall be
27 submitted by defense counsel in criminal cases, unless otherwise ordered by the court.
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1 IT IS FURTHER ORDERED original letters must be submitted by defense counsel
2 in paper form with the original to the U.S. Probation Office and copies to the disposition
3 judge and opposing counsel at least five (5) business days prior to the hearing. Character
4 letters shall not be mailed directly to the disposition judge by any family members or other
5 persons writing in support of the Defendant. Character letters or a notice of such shall not
6 be filed electronically unless otherwise ordered by the court.

7 IT IS FURTHER ORDERED that any motions for upward departure, downward
8 departure and disposition memoranda must be filed, at least, seven (7) business days prior
9 to the disposition. Responses are due three (3) business days prior to the disposition date.
10 Any motion to continue disposition must be filed promptly upon discovery of the cause for
11 continuance and must state the cause with specificity. Motions to continue disposition filed
12 less than fourteen (14) days before disposition are disfavored. If either party intends to
13 call a speaker at sentencing, other than the Defendant, counsel must notify the Courtroom
14 Deputy at least three (3) business days in advance.

15 Dated this 19th day of March, 2019.

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19 Honorable Michelle H. Burns
20 United States Magistrate Judge
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